

§ 170.435

contains deficiencies, the applicant will be issued a denial notice indicating that the applicant will no longer be considered for authorization under the temporary certification program. An applicant may request reconsideration of a denial in accordance with § 170.435.

(d) *Satisfactory application.* (1) An application will be deemed satisfactory if it meets all application requirements, including a passing score on the proficiency examination.

(2) The National Coordinator will notify the applicant's authorized representative of its satisfactory application and its successful achievement of ONC-ATCB status.

(3) Once notified by the National Coordinator of its successful achievement of ONC-ATCB status, the applicant may represent itself as an ONC-ATCB and begin testing and certifying Complete EHRs and/or EHR Modules consistent with its authorization.

§ 170.435 ONC-ATCB application reconsideration.

(a) An applicant may request that the National Coordinator reconsider a denial notice issued for each part of an application only if the applicant can demonstrate that clear, factual errors were made in the review of the applicable part of the application and that the errors' correction could lead to the applicant obtaining ONC-ATCB status.

(b) *Submission requirement.* An applicant is required to submit, within 15 days of receipt of a denial notice, a written statement to the National Coordinator contesting the decision to deny its application and explaining with sufficient documentation what factual errors it believes can account for the denial. If the National Coordinator does not receive the applicant's submission within the specified timeframe, its reconsideration request may be rejected.

(c) *Reconsideration request review.* If the National Coordinator receives a timely reconsideration request, the National Coordinator is permitted up to 15 days from the date of receipt to review the information submitted by the applicant and issue a decision.

(d) *Decision.* (1) If the National Coordinator determines that clear, factual

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errors were made during the review of the application and that correction of the errors would remove all identified deficiencies, the applicant's authorized representative will be notified of the National Coordinator's decision to reverse the previous decision(s) not to approve part of the applicant's application or the entire application.

(i) If the National Coordinator's decision to reverse the previous decision(s) affected part 1 of an application, the National Coordinator will subsequently review part 2 of the application.

(ii) If the National Coordinator's decision to reverse the previous decision(s) affected part 2 of an application, the applicant's authorized representative will be notified of the National Coordinator's decision as well as the applicant's successful achievement of ONC-ATCB status.

(2) If, after reviewing an applicant's reconsideration request, the National Coordinator determines that the applicant did not identify any factual errors or that correction of those factual errors would not remove all identified deficiencies in the application, the National Coordinator may reject the applicant's reconsideration request.

(3) *Final decision.* A reconsideration decision issued by the National Coordinator is final and not subject to further review.

§ 170.440 ONC-ATCB status.

(a) *Acknowledgement and publication.* The National Coordinator will acknowledge and make publicly available the names of ONC-ATCBs, including the date each was authorized and the type(s) of testing and certification each has been authorized to perform.

(b) *Representation.* Each ONC-ATCB must prominently and unambiguously identify the scope of its authorization on its Web site, and in all marketing and communications statements (written and oral) pertaining to its activities under the temporary certification program.

(c) *Renewal.* ONC-ATCB status does not need to be renewed during the temporary certification program.

(d) *Expiration.* The status of all ONC-ATCBs will expire upon the sunset of the temporary certification program in accordance with § 170.490.